

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James C. Bosier,
Petitioner-Appellant,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-07-1443
Parcel No. 8913-19-401-022

On February 10, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant James C. Bosier requested his appeal be considered without hearing. He was self-represented. Attorney David Mason was counsel for the Black Hawk County Board of Review. County Assessor Tami A. McFarland provided evidence on behalf of the Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

James C. Bosier, owner of property located at 1812 Primrose Drive, Cedar Falls, Iowa, appeals from the Black Hawk County Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story, frame dwelling built in 1955 with 1150 square feet of total living area including a one-story, frame addition built in 1985. It has a 350 square-foot, attached garage. The dwelling has a 900 square-foot basement with 30 square feet of finish, and a 144 square-foot wood deck. The dwelling has a 4+5 quality grade and is in normal condition. The property also has a 168 square-foot shed and is situated on a 0.328 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$137,350, representing \$30,300 in land value and \$107,050 in dwelling value.

Bosier protested to the Board of Review on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). He claimed the actual value of the property was \$110,000, allocated \$24,200 to land value and \$85,800 to dwelling value. The Board of Review denied the protest.

Bosier then filed his appeal with this Board and claimed the same ground. He reports that he purchased the property in March 2011 for \$110,000 and provided a copy of the settlement statement to verify the purchase price. Bosier indicated the property was listed on the Waterloo-Cedar Falls Board of Realtors' Multiple List Service and the purchase was an arm's-length transaction. The sale price of a property in an arm's-length transaction is to be considered in determining its fair market value, but does not conclusively establish the value. We note the subject property's record card indicates the seller was an estate and the purchase was a 1031 exchange.¹ We have no specific evidence indicating these factors make the sale abnormal. Bosier also did not provide an appraisal of the property based on comparable sales to support his purchase price.

The Board of Review provided sales data for three properties which sold between June 2010 and May 2011 in addition to the sale of the subject property. The properties were built between 1954 and 1959 and have the same grade classification as the subject property. All properties have total living area between 1086 and 1170 square feet. The subject property was built in 1955 and has 1150 square feet of living area.

Unadjusted sales prices ranged from \$145,000 to \$163,700, with a median of \$149,900; or \$132.30 to \$139.91 per-square foot with a median of \$138.03. The subject property sold in 2011 for

¹ Generally, if you exchange business or investment property solely for business or investment property of a like-kind, no gain or loss is recognized under Internal Revenue Code Section 1031. Exchange properties must be identified within 45 days and received within 180 days. 26 U.S.C. §1031(a).

\$95.65 per-square foot. While these sale prices are unadjusted, the properties are all one-story frame dwelling built between 1954 and 1959. They appear reasonably comparable to the subject property in site, quality grade, basement finish, and other features. We note the subject property's assessment falls below the range of the comparable sale prices per-square foot. This comparison does not support a claim of over-assessment.

Reviewing all the evidence, we find that the preponderance of the evidence does not support the Bosier's claims of over-assessment as of January 1, 2011.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2).

The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

In *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996), the Court determined that, “It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value.” While no evidence indicated the sale was abnormal, the fact that Bosier purchased the property from an estate and it was a 1031 exchange may have distorted the purchase price. Under these conditions, the purchase price is not to be taken into account unless the distorting factors can be clearly accounted for or an explanation of why adjustments were unnecessary is provided. *Id.* at 289. Because Bosier’s purchase price was significantly lower than the comparable sales data, we decline to rely on it as the sole indication of the subject’s fair market value.

Viewing the evidence as a whole, we determine that the preponderance of the evidence does not support Bosier’s claim of over-assessment in the January 1, 2011, assessment. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$137,350, representing \$30,300 in land value and \$107,050 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011. assessment as determined by the
Black Hawk County Board of Review is affirmed.

Dated this 24 day of April 2012.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Member

Richard Stradley
Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-24</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>John Bosier</u>